IN THE HIGH COURT OF JUDICATURE AT BOBBY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.896 OF 1996

Subhash s\o Narhar Bhavsar
and ors. .. Appellants

Vs.

Pralhad Narhar Bhavsar and ors. .. Respondents

Mr. S.M. Gorwadkar for the appellants.
Respondent Nos.1 and 16 served.
Mr. P.K. Dhakephalkar for Respondent No.2.
Mr. A.A. Khan for Respondent No.3.
Mr. A.J. Riswi for Respondent Nos.4 to 11.
Mr. L.C. Agarwal for Respondent Nos.12 and 13.
Mr. A.K. Patil for Respondent Nos.14,15 & 17.

CORAM: **B.H. MARLAPALLE,J.**

DATED: **JUNE 7, 2005**

P.C.:

1. The appellants are the plaintiffs in Special Civil Suit No. 18 of 1995 filed in the court of Civil Judge, Senior Division at Malegaon for the relief of declaration that the Power of Attorney executed by the Defendant No.1 in favour of Defendant No.2 is not binding upon the plaintiffs and are illegal and void ab initio. The similar declaration is also sought in respect of the agreement dated 13/1/1993, the sale deed executed by the defendant no.2 under registration no.3763/94, the transfer effected by sale deed under registration no.3776/94 dated 2/11/1994 by defendant

no.2 in favour of defendant no.s. 14 to 17 and the sale deed executed by the defendant no.2 in favour of defendant nos.18 and 19. The other sale deeds under challenge are dated 2/1/1994 in respect of plot no.3 to 8 and 14 of S.No.62/2, sale deed dated 25/7/1994 in respect of plot no.1 of S.No.62/2, plot no.2 of S.No.62/2, plot nos.11,12 and 13 of S.No.62/2 and the sale deed dated 30/10/1994 executed by defendant no.2 in favour of defendant nos.12 and 14. It is not known whether the said suit is still pending and more particularly because while admitting this appeal prayer for interim relief was not considered by this court.

2. In the order dated 1/9/1998 this court has noted that the plaintiffs and defendant nos.1 to 11 compromised the dispute and, therefore, appeal had survived only against present respondent nos.12 to 17.

3. In Special Civil Suit No.18/1995 an application for temporary injunction at Exh.5 was filed and the same came to be dismissed by the learned Civil Judge, Senior Division at Malegaon vide the impugned order dated 29/6/1996.

4. It is thus clear that there is no order of injunction operative against respondent nos.12 to 17 for

the last about 9 years or so and, therefore, this appeal to consider the merits of the application for temporary injunction is not required to be gone into at this stage. Ends of justice will be met by directing Special Civil Suit No.18/1995 to be decided within a fixed period, if still pending.

5. In the premises, the appeal is hereby disposed of by a direction to the Court below to hear and decide the Special Civil Suit No.18/1995 on its own merits and preferably within a period of six months from the date of receipt of this order, in case the same is still pending. No order as to cost.

(B.H. Marlapalle,J.)